

**PCT**  
**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
 (Chapter II of the Patent Cooperation Treaty)  
 (PCT Article 36 and Rule 70)

|   |   |   |
|---|---|---|
| Applicant's or agent's file reference<br>37422WOP00   | <b>FOR FURTHER ACTION</b>   | See Form PCT/IPEA/416                                       |
| International application No.<br><b>PCT/IB2005/050709</b>   | International filing date ( <i>day/month/year</i> )<br>28 February 2005 | Priority date ( <i>day/month/year</i> )<br>27 February 2004 |
| International Patent Classification (IPC) or national classification and IPC<br><br>Int. Cl.<br><br><i>E04B 1/64 (2006.01) E04F 13/00 (2006.01) E04B 1/70 (2006.01) E04H 9/16 (2006.01)</i> |   |   |
| Applicant<br><br><b>JAMES HARDIE INTERNATIONAL FINANCE B.V. et al</b>   |   |   |

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☒ (sent to the applicant and to the International Bureau) a total of 6 sheets, as follows:
 

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).  
☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:
 

|   |   |
|---|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report   |
| <input type="checkbox"/> Box No. II           | Priority  |
| <input type="checkbox"/> Box No. III          | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV           | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI           | Certain documents cited   |
| <input type="checkbox"/> Box No. VII          | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII         | Certain observations on the international application   |

|   |  |
|---|--|
| Date of submission of the demand<br>22 December 2005  | Date of completion of this report<br>07 February 2006                    |
| Name and mailing address of the IPEA/AU<br>AUSTRALIAN PATENT OFFICE<br>PO BOX 200, WODEN ACT 2606, AUSTRALIA<br>E-mail address: pct@ipaustalia.gov.au<br>Facsimile No. (02) 6285 3929 | Authorized Officer<br><br><b>JOHN HO</b><br>Telephone No. (02) 6283 2329 |

## Box No. I Basis of the report

## 1. With regard to the language, this report is based on:

- ☒ The international application in the language in which it was filed
- ☐ A translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3(a) and 23.1 (b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 1-2, 4-11 as originally filed/furnished

pages\* 3 received by this Authority on 22 December 2005 with the letter of 22 December 2005

pages\* received by this Authority on with the letter of

☒ the claims:

pages as originally filed/furnished

pages\* as amended (together with any statement) under Article 19

pages\* 12-16 received by this Authority on 22 December 2005 with the letter of 22 December 2005

pages\* received by this Authority on with the letter of

☒ the drawings:

pages 1/4-4/4 as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

\* If item 4 applies, some or all of those sheets may be marked "superseded."

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

|                               |             |     |
|-------------------------------|-------------|-----|
| Novelty (N)                   | Claims 1-40 | YES |
|                               | Claims -    | NO  |
| Inventive step (IS)           | Claims 1-40 | YES |
|                               | Claims -    | NO  |
| Industrial applicability (IA) | Claims 1-40 | YES |
|                               | Claims -    | NO  |

**2. Citations and explanations (Rule 70.7)**

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 - US 5369924  
D2 - US 3236932  
D3 - US 6430885  
D4 - US 6308486  
D5 - US 5517795  
D6 - JP 2002-97732

**NOVELTY (N)**

The present invention is directed to an elongate batten and a method of building construction using a batten for positioning intermediate an inner wall framing member and an outer wall cladding sheet and having at least one longitudinally extending channel to facilitate migration and drainage of moisture *between* the batten and the framing member along the length of the batten.

None of the prior art discloses the features of the present invention.

The closest art, D1, refers to a curtain-wall system having frames (20) and sub-frames (36) wherein channels (30) are formed within the frames (20) to discharge fluids which had penetrated the seals on the external surface of the glass panes. The channels (30) however are formed on the frame member and not on the sub-frames (36).

D2 refers to the use of furring strips (24) having a longitudinal channel for attachment to a stud or sheathing. There is no explicit teaching in D2 that this channel can facilitate the migration and drainage of moisture between the strip (24) and the sheathing or stud member.

D3 refers to the use of an engaging member (10) provided with a longitudinal channel. This longitudinal channels however is directed away from the framework and thus is not designed to facilitate the migration and evaporation of moisture *between* the engaging member/stud and the framework as defined in the claims.

Therefore, the subject matter of claims 1-40 is new and meets the requirements of Article 33(2) of the PCT with regard to novelty.

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

**INVENTIVE STEP (IS)**

Claims 1-40 also meet the criteria set out in PCT Article 33(3) with regard to the requirement of Inventive Step because the prior art does not obviously suggest to a person skilled in the art the use of a batten having at least one longitudinally extending channel to facilitate migration and drainage of moisture *between* the batten and the framing member along the length of the batten.

**INDUSTRIAL APPLICABILITY (IA)**

The claims are related to products capable of commercial application.